

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Quintin M. Littlejohn,

Plaintiff,

vs.

Kathy L. Byers;
Peggy L. Whittenburg;
Alfred R. Littlejohn;
The Whole Buckson Family,

Defendants.

) C/A No. 7:10-1961-RBH-KFM

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Report and Recommendation

Background of this Case

The plaintiff is under an order of pre-filing review. See *Graham v. Riddle*, 554 F.2d 133, 134-135 & n. * (4th Cir. 1977).¹ The plaintiff was confined in the South Carolina Department of Corrections until May of 2003, when he “maxed out” his sentence for his 1982 conviction for armed robbery entered in the Court of General Sessions for Cherokee

¹The order of pre-filing review was entered on July 10, 1998, by the Honorable G. Ross Anderson, Jr., United States District Judge, in *Quintin Littlejohn v. William J. Clinton, President of the United States*, Civil Action No. 6:98-1169-13AK. Judge Anderson’s order authorizes the Clerk’s Office to assign civil action numbers to the plaintiff’s pleadings for docket control purposes.

In the past, the plaintiff has been committed to the South Carolina Department of Mental Health for mental health treatment. See pleadings in *Quintin Littlejohn v. State of South Carolina, et al.*, Civil Action No. 6:07-3560-RBH-WMC.

County. The plaintiff currently resides in Gaffney, South Carolina. The defendants are, apparently, private citizens in Gaffney.

The plaintiff alleges that the defendants colluded with Lee Roy Martin, whom he identifies as “The Gaffney Strangler” (comp. at 1), in 1968 to murder four people. He appears to be seeking a reopening of the criminal investigation relating to the murders allegedly committed by Lee Roy Martin.

Discussion

The plaintiff is a *pro se* litigant, proceeding pursuant to the *in forma pauperis* statute, 28 U.S.C. § 1915. The statute authorizes the district court to dismiss a case if it is satisfied that the action is frivolous or fails to state a claim on which relief may be granted. 28 U.S.C. §1915(e)(2)(B)(i) and (ii). As a *pro se* litigant, the plaintiff’s pleadings are accorded liberal construction and held to a less stringent standard than formal pleadings drafted by lawyers. See *Erickson v. Pardus*, 551 U.S. 89, 94 (2007)(*per curiam*). Even under this less stringent standard, a *pro se* pleading remains subject to summary dismissal. The requirement of liberal construction does not mean that the court can ignore a clear failure in the pleading to allege facts which set forth a claim currently cognizable in a federal district court. *Weller v. Department of Social Services*, 901 F.2d 387, 391 (4th Cir. 1990).

It is well-established that through a civil action, a plaintiff cannot obtain criminal charges against defendants or obtain the initiation of a criminal investigation. See *Linda R. S. v. Richard D.*, 410 U.S. 614, 619 (1973) (a private citizen does not have a judicially cognizable interest in the prosecution or non-prosecution of another person);

Diamond v. Charles, 476 U.S. 54, 64-65 (1986) (applying *Linda R. S. v. Richard D. and collecting cases*).² Accordingly, the complaint fails to state a claim on which relief can be granted and should be dismissed.

Recommendation

Accordingly, it is recommended that the District Court summarily dismiss the above-captioned case *without prejudice* and without issuance and service of process. The plaintiff's attention is directed to the important Notice on the next page.

July 30, 2010
Greenville, South Carolina

s/Kevin F. McDonald
United States Magistrate Judge

²The *pro se* plaintiff cannot "represent" other citizens or residents of Cherokee County. See *Laird v. Tatum*, 408 U.S. 1 (1972); *Valley Forge Christian College v. Americans United for Separation of Church & State*, 454 U.S. 464, 482 (1982).

Notice of Right to File Objections to Report and Recommendation

The plaintiff is advised that he may file specific written objections to this Report and Recommendation with the District Judge. **Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections.** “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

**Larry W. Propes, Clerk of Court
United States District Court
Post Office Box 10768
Greenville, South Carolina 29603**

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).